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EXAMINER

STRIMBU, G

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 09/01/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/326,308

Applicant(s)
Y. Chu

Examiner
Gregory J. Strimbu

Group Art Unit
3634



☒ Responsive to communication(s) filed on May 8, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 5-19 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 5-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jun 7, 1999 is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on May 8, 2000 is ☒ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on July 9, 1998. It is noted, however, that applicant has not filed a certified copy of the French application No. 9,808,842 as required by 35 U.S.C. 119(b). Although the applicant has stated that a certified copy of the French application No. 9,808,842 was filed with the response of May 8, 2000, a copy of the application does not appear in the file.

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 8, 2000 have been approved.

The drawings, however, are objected to because figure 1 shows the cable 3 disposed above the plate 5 while figure 3 shows the cable 3 extending below the level of the plate 5. It is unclear how the invention would work with the cable disposed below the plate or why the cable would need to be disposed below the plate. Note that the figure 6 shows the insertion of the cable from above the plate. The drawings are objected to because the applicant has failed to use arrowheads consistently throughout the drawings. For example, in figure 2 the lead line for reference character 9 does not end with an arrowhead, however, the lead line for the same reference character in figure 4 ends with an arrowhead. To avoid confusion, it is suggested that the applicant maintain the consistent use of arrowheads throughout the drawings. Correction is required.

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Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the opening in the flange for inserting the cable. See claim 10.

The disclosure is objected to because the applicant should avoid referring to the same element of the invention with different language. For example, the applicant should avoid referring to element 1 as "rail" on line 21 of page 3 and "flange" on line 11 of page 4.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 14, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a radial width substantially equal to said passage" on lines 12-13 of claim 14 render the claims indefinite because it is unclear what characteristic of the passage the

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applicant is comparing the width of the flange to. Is the applicant comparing the width of the flange to the width or the length of the passage?

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 5-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3-5, 7, 9 and 11 of copending Application No. 09/321,030 in view of Yamagishi et al. Although the claims are not identical, it would have been obvious to one of ordinary skill in the art to provide claims 3-5, 7, 9 and 11 of copending Application No. 09/321,030 with a window raising device having a support plate 25 having a surface, a winding drum 13 having an axis of rotation and a plurality of grooves, a brake box forming a passage 53 having a ramp 51 angled at approximately 45 degrees, the introduction of the cable 15 at an angle relative to the axis of rotation of the drum 13, adjacent walls near the ramp 51 that are substantially parallel to the axis, a hood 37 which forms a passage contiguous

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with the support plate 25 and extends along a periphery of the drum 13, and the drum 13 having substantially the same diameter as the passage, all of which are taught by Yamagishi et al.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-9 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sessa '060.

Sessa '060 discloses a vehicle window raising device comprising a support plate 15 having a surface, a winding drum 10 having an axis of rotation and a flange 13 to support a cable 11, the flange 13 defines an opening 12 (as best seen in figure 7) to receive the cable end (not numbered), and a brake box 25 to rotatably support the drum 10 adjacent the support plate 15 at least partially on a first side of the surface, the brake box 25 forming a passage 19 to permit an introduction of the cable at an angle relative to the axis of rotation such that an end of the cable is inserted toward a second side of the surface opposite the first side. The opening 12 includes a ramp (not numbered) angled relative to an axis of rotation of the drum 10 and adjacent walls (not numbered, but seen in figure 5) near the ramp that are substantially parallel to the axis. The ramp is formed below the flange 13 and beyond the first side of the surface in a finger 31 engageable

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with a complementary finger of a crank coaxial with the drum. The ramp is angled at approximately 45 degrees relative to the axis. The flange 13 extends radially beyond the grooves.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sessa '060 in view of Yamagishi et al. Sessa '060 discloses a vehicle window raising device comprising a winding drum 10 having a plurality of grooves for supporting a cable 11, the drum 10 having a radially outwardly extending flange 13 defining an opening 12, a support plate 43 supporting the drum 10 such that the drum 10 rotates about an axis and a brake box 25 having a crank 18 to drive the drum 10, the flange 13 having a radially extending width, the flange 13 providing support for the cable 11. The opening 12 includes a ramp (not numbered) angled relative to the axis of rotation of the drum 10 at approximately 45 degrees and walls (not numbered) substantial parallel to the axis positioned adjacent the ramp. The ramp is formed in a finger 31 engageable with a complementary finger of a crank coaxial with the drum 10. Sessa '060 is silent concerning a hood.

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However, Yamagishi et al., in figure 1, disclose a vehicle window raising device comprising a guide rail 101 having a slider 103 attachable to a window (not shown), a return mechanism 107 mounted near an end of the guide rail 101, a cable 105 attached to the slider 103 and guided by the return mechanism 107 to move the slider 103 along the guide rail 101, a winding drum 111 for the cable 105, a hood 117 to support the drum 111 adjacent a support plate 115, the hood 117 forming a passage (not numbered) contiguous with the support plate 115 that permits an introduction of the cable 105 through the passage at an angle relative to the axis of rotation of the drum 111, the drum 111 having a radially extending width substantially equal to a radial dimension of the passage. The passage extends along a portion of the periphery of the drum 111.

It would have been obvious to one of ordinary skill in the art to provide Sessa '060 with a hood and a guide rail assembly, as taught by Yamagishi et al., to prevent foreign material from becoming entrained between the cable and the drum and to ensure the proper movement of the window with respect to the door of the vehicle, respectively.

Response to Arguments

Applicant's arguments filed May 8, 2000 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Sessa '060 failing to disclose a passage to permit an angle introduction of the cable, the examiner respectfully disagrees. It

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should first be noted that the recitation, "to permit an introduction of the cable . . . opposite said first side" on lines 5-7 of claim 5, is merely a functional limitation and as such is met if a reference is capable of performing the claimed function. The passage 19, as shown in figure 1 of Sessa '060, is capable of permitting an introduction of the cable at an angle relative to the axis of rotation such that an end of the cable is inserted toward a second end of the surface opposite the first side.

The applicant's comments concerning Yamagishi et al. have been carefully considered, but are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant has amended claims 10 and 14 to include the further limitation of a radially extending flange on lines 3 and 6, respectively. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is (703) 305-3979. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M. The fax phone number for this Group is (703) 305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

8/30/00

GJS

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Daniel P. Stodola
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Group 3600